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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 25, 2002

Petition of

Birchwood Power Partners, L.P.

Case No. PUE-2001-00719

To operate its qualifying cogeneration facility under PURPA as a non-qualifying generating facility without obtaining a certificate of public convenience and necessity or, in the alternative, application for certificate of public convenience and necessity

FINAL ORDER

On December 20, 2001, Birchwood Power Partners, L.P. ("Birchwood" or "Company"), filed with the State Corporation Commission ("Commission") a petition seeking the Commission to declare that its cogeneration facility ("Facility") located in King George County may cease operation as a qualifying facility ("QF") under the Public Utilities Regulatory Policies Act ("PURPA") and commence operation as a non-qualifying electric generating facility without obtaining a certificate of public convenience and necessity ("CPCN") from the Commission. In the alternative, Birchwood proposed that if the Commission finds that a certificate is required, the Company's Petition be treated as an application for a CPCN.

The Commission issued an Order for Notice and Comment on February 19, 2002 ("Order"), setting forth a procedural schedule in this proceeding, directing the Company to publish notice of its Petition and providing an opportunity for interested parties to file comments on the Company's Petition and the Company to file a Reply. Pursuant to the Order, on March 27,

Effective April 9, 2002, the new Case Management System requires that the case number format for all Commission orders change from, e.g., PUE010663 to the following: PUE-2001-00663.

2002, the Virginia Independent Power Producers, Inc. ("VIPP"), Dominion Virginia Power ("DVP"), and the Commission Staff ("Staff") each filed comments on the Company's Petition. The Company filed Reply Comments on April 9, 2002. Also on April 9, 2002, VIPP filed a Motion for Leave to File Reply Comments. On April 29, 2002, the Staff filed a Response to VIPP's Motion for Leave to File Reply Comments.

On May 2, 2002, Birchwood filed a Motion to Dismiss Petition ("Motion") stating that its business plans have changed such that the Company no longer requires or seeks the relief that it has requested in the Petition, and that it now wishes to continue to operate the Facility as a QF. Birchwood further requests in its Motion that the Commission dismiss its Petition without prejudice. The Staff filed a response to Birchwood's Motion on May 22, 2002, stating that it did not object to Birchwood's motion to dismiss *per se*, but that the Motion presented an opportunity for the Commission to postpone the resolution of this issue to a future date, or because of the broader policy implications involving the numerous QFs sited and operating in Virginia, to address it now.

NOW THE COMMISSION, in consideration of the matter, is of the opinion and finds that the Company's Motion to Dismiss should be dismissed without prejudice. If Birchwood seeks to convert its operational status from a qualifying facility to a non-qualifying facility in the future, the Company may file any appropriate application with the Commission at that time.

Accordingly, IT IS ORDERED THAT:

(1) The Company's May 2, 2002, Motion to Dismiss Petition is hereby granted without prejudice.

(2) This matter is dismissed.